

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/220322

APPLICANT: Beauty Holding Company, Inc.



CORRESPONDENT ADDRESS:

Patricia M. DeSimone
Alberto-Culver Company 2525 Armitage Aven
Melrose Park IL USA 60160

RETURN ADDRESS:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

If no fees are enclosed, the address should
include the words "Box Responses - No Fee."

MARK: GLOSSING SYRUP

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address..

Serial Number 78/220322

Applicant is requesting reconsideration of a final refusal dated April 6, 2004. After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

As shown below in supplemental Lexis-Nexis evidence, syrups can be used in the hair. The first article refers to a "syrup-like treatment" that "adds shine to damaged hair," while the second says that maple syrup applied to the hair is a solution for split ends and frizz. As such, the mark GLOSSING SYRUP is clearly descriptive of a syrup-like product which adds gloss to hair. Also, the applicant's reconsideration request says that even if the mark is descriptive, then "applicant submits that the acquisition of secondary meaning entitles applicant's mark to registration." The examining attorney is unclear what this language refers to. The applicant has not amended the application to seek registration under Trademark Act Section 2(f) based on acquired distinctiveness, nor has it submitted any evidence of acquired distinctiveness. The application is not even a use based application.

Accordingly, applicant's request for reconsideration is *denied*. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c).

NOTICE: TRADEMARK OPERATION RELOCATION

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark

documents) must be sent to:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/James T. Griffin/
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Informal communications only:
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MAIL-IT REQUESTED: NOVEMBER 26, 2004

10083K

CLIENT:
LIBRARY: NEWS
FILE: ALLNWS

YOUR SEARCH REQUEST AT THE TIME THIS MAIL-IT WAS REQUESTED:
(HAIR W/5 SYRUP) AND (DATE AFT 3/25/2004)

NUMBER OF STORIES FOUND WITH YOUR REQUEST THROUGH:
LEVEL 1... 13

LEVEL 1 PRINTED

THE SELECTED STORY NUMBERS:
7,11

DISPLAY FORMAT: 30 VAR KWIC

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Reno Gazette-Journal

September 4, 2004 Saturday Final Edition

SECTION: LIFE; Pg. 1E

LENGTH: 391 words

HEADLINE: Late-summer Envy, flowers and chocolate

BYLINE: Siobhan McAndrew

BODY:

... hair place near you is Bed Head's Chocolate Head, an after-conditioning hair rinse. This product took away an intense craving for chocolate I experienced after 20 minutes of working out. As soon as you douse your hair with this syrup-like treatment, the shower is filled with the fumes of generic brownie mix. You wash, condition and apply a generous amount of the chocolate rinse, then wait five minutes. It adds shine to damaged hair. It's sold at beauty supply stores and ...

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The Sunday Oklahoman (Oklahoma City, OK)

July 25, 2004 Sunday
City Edition

SECTION: LIVING; LINDA MILLER; Pg. 1D

LENGTH: 621 words

HEADLINE: Kahlua and milk are latest trend in hair d'oeuvres

BYLINE: Linda Miller, FASHION EDITOR

BODY:

... ends, rub olive oil into the ends of hair 2-3 times per week. For best results, leave the oil on overnight and wash out in the morning.

Another solution for split ends and frizz: massage maple syrup onto dry hair and leave for 30 minutes.

Put mayonnaise, not Miracle Whip, on your hair and cover with a plastic cap. Use overnight to promote stronger strands and growth.

Coat your hair with mayonnaise to smooth the frizzies, then rinse and condition. ...

